

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**RECEIVED**

DEC 22 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Direct Access to the  
INTELSAT System

)  
)  
)  
)  
)  
)

IB No. 98-192  
File No. 60-SAT-ISP-97

**COMMENTS OF IT&E OVERSEAS, INC.**

IT&E Overseas, Inc. ("IT&E") strongly supports the Commission's proposal to authorize direct access to the INTELSAT system in the United States.<sup>1</sup> Direct access is fully consistent with the Communications Satellite Act of 1962 ("Satellite Act") and has the potential to confer substantial benefits in the distant regions of the Western Pacific served by IT&E.

**I. IT&E'S CUSTOMERS WILL BENEFIT FROM DIRECT ACCESS TO INTELSAT**

IT&E provides international and domestic interexchange services to some of the most remote regions of the Western Pacific. IT&E links Guam and the Commonwealth of the Northern Mariana Islands ("CNMI"), which are scattered over hundreds of miles of open ocean 3,300 miles west of Hawaii, to each other and to the U.S. mainland by a combination of INTELSAT space segment and fiber-optic submarine cables owned by U.S. and foreign entities.

In spite of its best efforts, IT&E has been unable to obtain a non-INTELSAT source of space segment capacity. The most promising source of potential separate system capacity -- a proposal from PanAmSat to furnish an "Oceania Beam" on its POR

---

<sup>1</sup> *Direct Access to the INTELSAT System*, IB Docket No. 98-192, File No. 60-SAT-ISP-97, Notice of Proposed Rulemaking (rel. Oct. 28, 1998) ("NPRM").

satellite (PAS-2) -- was abandoned by PanAmSat in 1994. Accordingly, IT&E's only potential source of non-INTELSAT space segment is PanAmSat's Pacific Rim Beam, the signal of which is so attenuated in the Guam/CNMI region that it could serve IT&E's customers only after installation of new, substantially larger and more expensive earth stations and payment of a price 50 percent higher than PanAmSat's service to other users. The net cost of this option would exceed even the Comsat rate for INTELSAT-based service. Accordingly, IT&E must continue to obtain satellite service at Comsat's monopoly rates.

As the comments in the *Non-Dominant Proceeding* make clear, Comsat customers pay a markup of 68 percent to 250 percent over the INTELSAT Utilization Charge ("IUC") for access to INTELSAT space segment.<sup>2</sup> Elimination of this markup would bring immediate and substantial savings to IT&E, which IT&E -- faced as it is with substantial competition from other carriers -- would have every incentive to pass along to its customers.

Direct access to INTELSAT also would improve competition in Guam and the CNMI by offsetting, however incompletely, the competitive disability imposed upon IT&E by the rate integration requirements of the Telecommunications Act of 1996. As IT&E has pointed out in previous filings, the effect of mandatory rate integration on IT&E is likely to be very different from its effect on the large, national carriers with which it competes.<sup>3</sup> IT&E's costs of service -- whether through cable or satellite facilities -- are not distance-insensitive costs of the kind that give rate integration

---

<sup>2</sup> *Id.* ¶ 45 citing Satellite User's Coalition, Analysis of Privatization of the Intergovernmental Satellite Organizations at 17, 23-24.

<sup>3</sup> Comments of IT&E Overseas, Inc. *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61 at 20-21 (filed Apr. 19, 1996) ("IT&E Rate Integration Comments").

schemes their economic rationale;<sup>4</sup> and unlike some of its competitors, IT&E cannot spread the high, distance-sensitive costs of serving Guam and the CNMI among a national customer base. As IT&E explained in its earlier filings, the Commission's original rate integration policy was predicated on the existence and availability of reasonably priced, distance-insensitive, and *competitive* satellite services covering the continental United States and offshore points.<sup>5</sup> Because the authorization of direct access will not result in the establishment of competing satellite systems, IT&E continues to believe that its pending request for forbearance from rate integration with respect to rates from the CNMI to the mainland should be granted.<sup>6</sup> IT&E supports direct access, however, because it will result, at least theoretically, in competition between two satellite service providers.

## **II. THE COMMISSION HAS AMPLE AUTHORITY TO PERMIT DIRECT ACCESS**

IT&E also agrees with the Commission's tentative conclusion that there are no legal obstacles to authorization of Level 3 direct access to INTELSAT. As the Commission points out, the Satellite Act's reservation to Comsat of an exclusive right to participate in INTELSAT does not preclude other U.S. entities from acting as INTELSAT customers.<sup>7</sup> Also, contrary to Comsat's claims and for the reasons amply stated in the NPRM, authorization of Level 3 direct access will not violate the commitments of the United States in the World Trade Organization Basic Telecom

---

<sup>4</sup> *Id.* at 19-20.

<sup>5</sup> *Id.* at 16-20.

<sup>6</sup> See Petition for Partial Reconsideration of IT&E Overseas, Inc., *Policy and Rules Concerning the Interstate, Interexchange Marketplace*, CC Docket No. 96-61 at 5-9 (filed Sept. 16, 1996).

<sup>7</sup> NPRM ¶ 26.

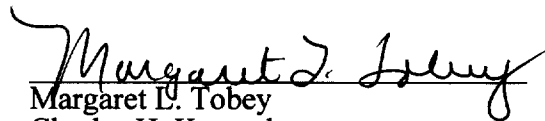
Agreement<sup>8</sup> and will not constitute an uncompensated taking of any Comsat property interest in violation of the Fifth Amendment to the United States Constitution.<sup>9</sup>

Accordingly, the Commission should act as the regulatory administrations of 93 other countries already have done and immediately authorize U.S. users and carriers to obtain Level 3 direct access to INTELSAT.

### CONCLUSION

Perhaps uniquely among U.S. consumers of telecommunications services, IT&E's ratepayers are captive to the monopoly satellite services of Comsat. IT&E strongly urges the Commission to bring competition to this market by authorizing direct access to INTELSAT without further delay.

Respectfully submitted,



Margaret L. Tobey  
Charles H. Kennedy  
Morrison & Foerster LLP  
2000 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
202-887-1500

COUNSEL FOR IT&E OVERSEAS, INC.

December 22, 1998

---

<sup>8</sup> *Id.* ¶ 28.

<sup>9</sup> *Id.* ¶¶ 31-43.

**CERTIFICATE OF SERVICE**

I, Theresa Pringleton, do hereby certify that the foregoing **COMMENTS OF IT&E OVERSEAS, INC.** were served by hand delivery on this 22st day of December, 1998, upon the following:

Chairman William E. Kennard  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Commissioner Harold Furchtgott-Roth  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
1919 M Street, N.W., Room 826  
Washington, D.C. 20554


International Transcription Service  
1231 20th Street, N.W.  
Washington, D.C. 20036

Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

Commissioner Michael Powell  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

Regina Keeney, Chief  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Suite 800  
Washington, D.C. 20554

Kathleen A. Campbell  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Suite 800  
Washington, D.C. 20554

  
Theresa Pringleton